

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**LADY B. GARTH**

**PLAINTIFF**

**V.**

**NO. 1:24-CV-70-DMB-RP**

**CITY OF ABERDEEN, MISSISSIPPI;  
CHARLES SCOTT, Mayor of the City  
of Aberdeen, Mississippi; MONROE  
COUNTY, MISSISSIPPI; and STATE  
OF MISSISSIPPI**

**DEFENDANTS**

**ORDER**

On September 6, 2024, United States Magistrate Judge Roy Percy issued a “Report and Recommendation” (“R&R”) recommending that Lady B. Garth’s claims against the City of Aberdeen, Mississippi, be dismissed without prejudice.<sup>1</sup> Doc. #25 at 1. The R&R warned that “failure to file written objections to the proposed findings, conclusions, and recommendations in [the R&R] within 14 days after being served with a copy bars ... (1) entitlement to *de novo* review by a district judge of proposed findings and recommendations, ... and (2) appellate review, except on grounds of plain error ....” *Id.* at 2 (citations omitted). No objection to the R&R was filed.

Under 28 U.S.C. § 636(b)(1)(C), “[a] judge of the court shall make a de novo determination of those portions of the report ... to which objection is made.” “[P]lain error review applies where a party did not object to a magistrate judge’s findings of fact, conclusions of law, or recommendation to the district court despite being served with notice of the consequences of failing to object.” *Quintero v. State of Texas – Health and Hum. Servs. Comm’n*, No. 22-50916, 2023 WL 5236785, at \*2 (5th Cir. Aug. 15, 2023) (cleaned up). “[W]here there is no objection,

---

<sup>1</sup> The R&R followed Garth’s failure to respond to Judge Percy’s August 5 order requiring Garth to show cause why her claims against the City should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). Doc. #25 at 1.

the Court need only determine whether the report and recommendation is clearly erroneous or contrary to law.” *United States v. Alaniz*, 278 F. Supp. 3d 944, 948 (S.D. Tex. 2017).

Because the Court reviewed the R&R for plain error and concludes the R&R is neither clearly erroneous nor contrary to law, the R&R [25] is **ADOPTED** as the order of the Court. Garth’s claims against the City are **DISMISSED without prejudice**.

**SO ORDERED**, this 1st day of October, 2024.

/s/Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**